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FILED

MAR 19 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
MOISES GUTIERREZ-HERNANDEZ
(aka ALEJANDRO BARDALES-
MENDOZA),
Defendant.

No.: CR-07-00138-SBA

STIPULATION AND ~~PROPOSED~~ ORDER EXCLUDING TIME FROM MARCH 9, 2007 TO MARCH 20, 2007 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))

STIPULATION AND ~~PROPOSED~~ ORDER EXCLUDING TIME
CR-07-70099 WDB

*y/ac: Copy to parties via ECF
WDB's Bets & Lisa Clark*

1 With the agreement of the parties, and with the consent of the defendant, the Court enters
2 this order scheduling an appearance date of March 20, 2007 at 9:00 a.m., before the Honorable
3 Saundra Brown Armstrong for a status conference, and documenting the exclusion of time under
4 the Speedy Trial Act, 18 U.S.C. § 3161(b), from March 9, 2007 to March 20, 2007.

5 The parties appeared at a status conference on March 9, 2007 before the Honorable
6 Wayne D. Brazil, at which time the defendant agreed to waive time under Federal Rule of
7 Criminal Procedure 5.1 for indictment and under the Speedy Trial Act, 18 U.S.C. § 3161(b),
8 based upon defense counsel's need to review discovery and effectively prepare the defense of this
9 matter. Counsel for the defense believed that postponing the preliminary hearing was in her
10 client's best interest, and that it was not in her client's interest for the United States to indict the
11 case before the March 16, 2007 preliminary hearing date. At the March 9, 2007 hearing, the
12 Court found that, taking into the account the public interest in the prompt disposition of criminal
13 cases, these grounds are good cause for extending the time limits for a preliminary hearing under
14 Federal Rule of Criminal Procedure 5.1 and under the Speedy Trial Act, 18 U.S.C. § 3161(b).
15 Given these circumstances, the Court found that the ends of justice served by excluding the
16 period from March 9, 2007 to March 16, 2007, outweighed the best interest of the public and the
17 defendant in a speedy trial. Id. § 3161(h)(A). On March 14, 2007, the government filed an
18 information in this case. At the March 16, 2007 status hearing, the defendant signed a waiver of
19 indictment. At the March 16, 2007 hearing, the defendant also agreed to waive time under the
20 Speedy Trial Act, 18 U.S.C. § 3161(b).

21 The parties agree, and the Court finds and holds, as follows:

- 22 1. The defendant is in custody.
- 23 2. The defendant agrees to an exclusion of time under the Speedy Trial Act based upon
24 defense counsel's need to obtain and review discovery to effectively prepare to defend this case.
- 25 3. Counsel for the defense believes that the exclusion of time is in her client's best
26 interest.
- 27 4. Given these circumstances, the Court finds that the ends of justice served by excluding
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STIPULATION AND [PROPOSED] ORDER EXCLUDING TIME
CR-07-70099 WDB

1 the period from March 9, 2007 to March 20, 2007, outweigh the best interest of the public and
2 the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

3 5. Accordingly, and with the consent of the defendant, the Court (1) sets an appearance
4 date before the Honorable Saundra Brown Armstrong of March 20, 2007 at 9:00 a.m. for initial
5 appearance; and (2) orders that the period from March 9, 2007 to March 20, 2007 be excluded
6 from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

7
8 STIPULATED:

9
10 DATED: March 19, 2007

/s/
HILARY FOX
Attorney for Defendant

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12 DATED: March 19, 2007

/s/
CHINHAYI J. COLEMAN
Assistant United States Attorney

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14
15 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
16 "conformed" signature (/S/) within this e-filed document.

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19 IT IS SO ORDERED.

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21 DATED: 3/19/07


WAYNE D. BRAZIL
United States Magistrate Judge

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STIPULATION AND [PROPOSED] ORDER EXCLUDING TIME
CR-07-70099 WDB